

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1645

Introduced by Assembly Member Ridley-Thomas

February 21, 2003

~~An act to add Section 21667 to the Public Utilities Code, relating to airports. An act to amend Section 5374 of, and to add Section 5384.7 to, the Public Utilities Code, relating to charter-party carriers.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1645, as amended, Ridley-Thomas. ~~Airports:—ground transportation security~~ *Charter-party carriers of passengers: drivers: background checks.*

~~(1) The Transportation Security Administration of the United States Department of Transportation, administered by the Under Secretary of Transportation for Security, is responsible for carrying out measures to ensure aviation security, including hiring, training, and retention of personnel for the security screening of passengers and baggage and conducting background checks for individuals with access to secure areas of airports regularly serving an air carrier holding a certificate issued by the Secretary of Transportation.~~

~~The State Aeronautics Act governs the establishment and operation of airports in this state. The act requires the issuance of a permit by the Department of Transportation before any political subdivision or person may construct, establish, operate or expand an airport.~~

~~This bill would require the department to adopt standards governing security for ground transportation carriers to and from airports that require an operating permit. Because any violation of the State~~

~~Aeronautics Act is a crime, this bill would impose a state-mandated local program by creating a new crime.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including charter-party carriers of passengers. Charter-party carriers of passengers are subject to the jurisdiction and control of the commission under the Passenger Charter-Party Carriers' Act. The act requires a charter-party carrier of passengers to obtain from the commission a certificate that public convenience and necessity require the operation, except that certain specific transportation services may be conducted under authority of a permit issued by the commission. The act prohibits the commission from issuing or renewing a permit unless the applicant has met specified requirements

This bill would require the commission to adopt regulations establishing standards and procedures to investigate the criminal background of candidates seeking certificates for employment as drivers with charter-party carriers of passengers that provide passenger transportation to and from airports. The bill would require the commission to restrict such a charter-party carrier of passengers to employment of individuals approved for that employment by the commission, based on successful completion of the criminal background investigation. The bill would impose penalties for violation of that employment restriction. The bill would require the commission to issue an identification credential to each applicant that successfully completes that criminal background investigation process and would require that all drivers employed by such a charter-party carrier of passengers carry the identification credential at all times on airport property. The bill would impose civil penalties for failure to produce the credential at the request of airport law enforcement officers. Repeated violations would be grounds for revocation of the carrier's permit. The bill would require the commission to provide for a fee to be charged of the charter-party carrier of passengers and collected by the commission, sufficient to cover certain related costs.

The bill would prohibit the commission from issuing or renewing a permit for a charter-party carrier applicant providing transportation to and from airports unless it certifies its drivers have successfully completed a criminal history background check and has been issued an identification credential.



Because a violation of the act or of an order or other requirement of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

~~SECTION 1.—Section 21667 is added to the Public Utilities~~

SECTION 1. *It is the intent of the Legislature to reaffirm its commitment to homeland security as it relates to charter-party carriers of passengers and their employees who drive passengers to and from airports. The purpose of the act adding this section is to ensure that procedures and regulations are in place consistent with the airport security programs operated by airports in this state, to assure the traveling public that drivers of privately engaged carriers have been through security clearances, and to provide uniformity in credentialing among charter-party carriers of passengers.*

SEC. 2. *Section 5374 of the Public Utilities Code is amended to read:*

5374. (a) Before a permit is issued or renewed, the commission shall require the applicant to establish reasonable fitness and financial responsibility to initiate and conduct or continue to conduct the proposed or existing transportation services. The commission shall not issue or renew a permit pursuant to this chapter unless the applicant meets ~~both~~ all of the following requirements:

(1) It certifies on a form acceptable to the commission that the applicant will maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

1 (2) It provides for a mandatory controlled substance and
2 alcohol testing certification program as adopted by the
3 commission pursuant to Section 1032.1.

4 (3) *A charter-party carrier applicant providing transportation*
5 *to and from airports, certifies its drivers have successfully*
6 *completed a criminal history background check and have been*
7 *issued an identification credential in accordance with Section*
8 *5384.7.*

9 (b) (1) Before a certificate is issued or renewed, the
10 commission shall require the applicant to establish reasonable
11 fitness and financial responsibility to initiate and conduct or
12 continue to conduct the proposed or existing transportation
13 services. The commission shall not issue or renew a certificate
14 pursuant to this chapter unless the applicant meets all of the
15 following requirements:

16 (A) It is financially and organizationally capable of conducting
17 an operation that complies with the rules and regulations of the
18 Department of the California Highway Patrol governing highway
19 safety.

20 (B) It is committed to observing the hours of service
21 regulations of state and, where applicable, federal law, for all
22 persons, whether employees or subcarriers, operating vehicles in
23 transportation for compensation under the certificate.

24 (C) It has a preventive maintenance program in effect for its
25 vehicles used in transportation for compensation that conforms to
26 regulations of the Department of the California Highway Patrol in
27 Title 13 of the California Code of Regulations.

28 (D) It participates in a program to regularly check the driving
29 records of all persons, whether employees or subcarriers,
30 operating vehicles used in transportation for compensation
31 requiring a class B driver's license under the certificate.

32 (E) It has a safety education and training program in effect for
33 all employees or subcarriers operating vehicles used in
34 transportation for compensation.

35 (F) It will maintain its vehicles used in transportation for
36 compensation in a safe operating condition and in compliance with
37 the Vehicle Code and with regulations contained in Title 13 of the
38 California Code of Regulations relative to motor vehicle safety.

1 (G) It has filed with the commission the certificate of workers'
2 compensation insurance coverage or statement required by
3 Section 5378.1.

4 (H) It has provided the commission an address of an office or
5 terminal where documents supporting the factual matters specified
6 in the showing required by this subdivision may be inspected by
7 the commission and the Department of the California Highway
8 Patrol.

9 (I) It provides for a mandatory controlled substance and
10 alcohol testing certification program as adopted by the
11 commission pursuant to Section 1032.1.

12 (2) With respect to subparagraphs (B) and (F) of paragraph (1),
13 the commission may base a finding on a certification by the
14 commission that an applicant has filed, with the commission, a
15 sworn declaration of ability to comply and intent to comply.

16 (c) In addition to the requirements in subdivision (b), class A
17 and class B charter-party carriers shall meet all other state and,
18 where applicable, federal regulations as prescribed.

19 (d) The commission may delegate to its executive director or
20 that executive director's designee the authority to renew, or
21 authorize the transfer of, charter-party carrier permits or
22 certificates and to make the findings specified in subdivision (b)
23 that are necessary to that delegated authority.

24 *SEC. 3. Section 5384.7 is added to the Public Utilities Code,*
25 *to read:*

26 *5384.7. (a) The commission shall adopt regulations, in*
27 *accordance with this section and Chapter 3.5 (commencing with*
28 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
29 *Code, to establish standards and procedures to investigate the*
30 *background of candidates seeking certificates for employment as*
31 *drivers with charter-party carriers of passengers that provide*
32 *passenger transportation to and from airports. These regulations*
33 *shall direct the Carriers Branch of the commission which licenses*
34 *charter-party carriers of passengers to use criminal history*
35 *information to determine whether applicants for employment as a*
36 *driver have a conviction for a qualifying felony crime that would*
37 *disqualify them from being hired as drivers because they would be*
38 *a threat to the safety of the public if employed as a driver of*
39 *charter-party carrier vehicle.*

1 **(b)** *The commission shall by regulation provide that a*
2 *fingerprint-based criminal background investigation be used to*
3 *determine past convictions for the following specified criminal*
4 *acts that disqualify the applicant for employment in this capacity:*
5 **(1)** *Unlawful transportation of a hazardous material (49*
6 *U.S.C. Sec. 46312).*
7 **(2)** *Carrying a weapon or explosive aboard an aircraft (49*
8 *U.S.C. Sec. 46505).*
9 **(3)** *Unlawful entry into an aircraft or airport area that serves*
10 *air carriers or foreign air carriers contrary to established security*
11 *requirements (49 U.S.C. Sec. 46314).*
12 **(4)** *Destruction of an aircraft or aircraft facility (18 U.S.C. Sec.*
13 *32).*
14 **(5)** *Violence at international airports (18 U.S.C. Sec. 37).*
15 **(6)** *Unlawful possession, use, sale, distribution, or*
16 *manufacture of an explosive, incendiary device, or assault*
17 *weapon.*
18 **(7)** *Felony arson.*
19 **(8)** *Hate crime, as described in paragraph (2) of subdivision*
20 *(b) of Section 628.1 of the Penal Code, including, but not limited*
21 *to, offenses in Title 11.6 (commencing with Section 422.6) of Part*
22 *1 of the Penal Code.*
23 **(9)** *Conspiracy or attempt to commit any of the criminal acts*
24 *listed in paragraphs (1) to (8), inclusive.*
25 **(c)** *The commission shall by regulation also require that the*
26 *criminal background investigation be used to determine the*
27 *existence of any outstanding warrants for the arrest of the*
28 *applicant for employment. If the criminal background*
29 *investigation reveals one or more such warrants, the commission*
30 *shall notify the appropriate law enforcement agency of the*
31 *application.*
32 **(d)** *The commission shall by regulation ensure compliance with*
33 *Section 50.12 of Title 28 of the Code of Federal Regulations as it*
34 *exists on January 1, 2003, with regard to records of the Federal*
35 *Bureau of Investigation, and provide similar requirements with*
36 *regard to state records.*
37 **(e)** *Crimes for which the person was convicted of, or*
38 *incarcerated for, more than 10 years prior to the date of*
39 *application may not be used or considered in making employment*
40 *determinations. For purposes of this section, a conviction means*

1 *a plea or verdict of guilty or a conviction following a plea of nolo*
2 *contendere.*

3 *(f) The commission shall by regulation require that a*
4 *charter-party carrier of passengers may only employ an individual*
5 *as a driver of passengers to or from airports if that individual has*
6 *been approved for that employment by the commission, based on*
7 *successful completion of the criminal background investigation.*
8 *This requirement shall apply retroactively to drivers employed on*
9 *or after January 1, 2003, and to all future applicants. Employment*
10 *of individuals not approved as drivers by a charter-party carrier*
11 *of passengers shall constitute a violation of the regulations and*
12 *subject the carrier to civil penalties not to exceed two thousand*
13 *dollars (\$2000) per incident. Repeated violations of this nature*
14 *shall be grounds for revocation of the carrier's permit.*

15 *(g) The commission shall by regulation require that*
16 *charter-party carriers of passengers require applicants who are*
17 *offered employment as a driver of a motor vehicle providing*
18 *passenger transportation to and from airports, to submit*
19 *fingerprints and other pertinent information, as required by the*
20 *regulations, to the commission for the purpose of obtaining*
21 *criminal background information.*

22 *(h) The commission shall transmit the fingerprints to the*
23 *Department of Justice. The Department of Justice shall conduct*
24 *the check, and forward request for federal level criminal offender*
25 *record information to the Federal Bureau of Investigation. The*
26 *Department of Justice shall provide the following information to*
27 *the commission:*

28 *(1) Every conviction rendered against the applicant.*

29 *(2) Every arrest for an offense for which the Department of*
30 *Justice has determined that the applicant is presently awaiting*
31 *trial, or whether the applicant is incarcerated or has been released*
32 *on bail or on his or her own recognizance pending trial.*

33 *(3) Every warrant for the arrest of the applicant.*

34 *(i) The commission shall review all information received from*
35 *the charter-party carrier of passengers and the Department of*
36 *Justice pursuant to the regulations. All information received by the*
37 *commission shall be held as confidential, except that if*
38 *employment is to be denied based on criminal history information,*
39 *the commission shall notify the charter-party carrier of passengers*
40 *of the applicant's disqualification, and provide a copy of the*

1 history and an explanation of the denial to the applicant. The
2 applicant shall be given an opportunity to request a review if it is
3 determined that the record is inaccurate.

4 (j) The commission shall by regulation provide that the
5 commission issue an identification credential to each applicant
6 that successfully completes that criminal background
7 investigation process.

8 (k) The commission shall by regulation provide that all drivers
9 employed by a charter-party carrier of passengers shall carry the
10 identification credential at all times on airport property, and shall
11 produce the credential for inspection upon request of airport law
12 enforcement officers. Failure to produce the credential at the
13 request of airport law enforcement officers shall constitute a
14 violation of the regulations and subject the driver and the carrier
15 to civil penalties not to exceed five hundred dollars (\$500) per
16 incident. Repeated violations of this nature shall be grounds for
17 revocation of the carrier's permit.

18 (l) The commission shall by regulation provide for a fee to be
19 charged of the charter-party carrier of passengers, to be collected
20 by the commission, sufficient to cover the costs of the commission
21 and Department of Justice for processing fingerprint records,
22 reviewing documents, and issuing identification credentials
23 pursuant to this section.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 Code, to read:

34 ~~21667. The department shall adopt standards governing~~
35 ~~security for ground transportation carriers to and from airports~~
36 ~~requiring a permit to operate under this article.~~

37 SEC. 2. ~~No reimbursement is required by this act pursuant to~~
38 ~~Section 6 of Article XIII B of the California Constitution because~~
39 ~~the only costs that may be incurred by a local agency or school~~
40 ~~district will be incurred because this act creates a new crime or~~

1 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
2 ~~for a crime or infraction, within the meaning of Section 17556 of~~
3 ~~the Government Code, or changes the definition of a crime within~~
4 ~~the meaning of Section 6 of Article XIII B of the California~~
5 ~~Constitution.~~
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